

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

THIRD POINT, LLC,)	
)	
)	
Plaintiff,)	
v.)	Civil Action No. _____
)	
TRIPOINT ASSET)	
MANAGEMENT, LP and)	
TRIPOINT HOLDINGS LLC,)	
)	
)	
Defendants.)	

COMPLAINT

Plaintiff, Third Point, LLC ("Third Point"), by way of Complaint against Defendants, TriPoint Asset Management, LP ("TriPoint AM") and TriPoint Holdings, LLC ("TriPoint Holdings") (collectively "TriPoint"), respectfully avers the following:

NATURE OF ACTION

1. This is a Complaint for false designation of origin and unfair competition under the Trademark Act of 1946, 15 U.S.C. § 1051, et seq., as amended (hereinafter the "Lanham Act"), and for unfair competition under the laws of the State of Delaware.

PARTIES

2. Plaintiff Third Point is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in New York, New York.

3. Third Point is in the business of providing alternative investment services, specifically hedge fund services, and has been in operation since 1995.

4. Upon information and belief, TriPoint AM is a limited partnership organized under the laws of the State of Delaware with its principal place of business in Boston, Massachusetts.

5. Upon information and belief, TriPoint AM is in the business of providing alternative investment services.

6. Upon information and belief, TriPoint Holdings is a limited liability company organized and existing under the laws of the State of Delaware and is a General Partner in TriPoint AM.

JURISDICTION AND VENUE

7. The authorized agent for service in Delaware for Tripoint AM and Tripoint Holdings is Agents and Corporations, Inc, located at 1201 Orange Street, Suit 600, Wilmington, Delaware, 19801.

8. This Court has original jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a), and the principles of supplemental jurisdiction.

9. Venue in this District is proper pursuant to 28 U.S.C. §§ 1391(b) and (c).

BACKGROUND

10. Third Point has used the trademark name THIRD POINT to identify itself and its services in the United States and throughout the world since 1995.

11. Third Point is the owner of the entire right, title and interest in and to the following applications to the Principal Register of the United States Patent and Trademark Office ("PTO") and the common law marks represented thereby:

a. THIRD POINT, Serial No. 77/097,747, filed February 2, 2007 in International Class 36 for use on and in connection with "financial management and investment services; asset management services; hedge fund services" based on first use and first use in commerce at least

as early as 1995.

b. THIRD POINT & Design, Serial No. 77/097,779, filed February 2, 2007 in International Class 36 for use on and in connection with financial management and investment services; asset management services; hedge fund services” based on first use and first use in commerce at least as early as 1995.

12. Today, Third Point manages four funds: Third Point Partners L.P., Third Point Offshore Fund, Ltd., Third Point Partners Qualified L.P., and Third Point Ultra Ltd.

13. Third Point has established a reputation in the investment community, and the investment community associates the Third Point name with the quality investment services that Third Point offers.

14. The THIRD POINT mark has acquired substantial goodwill in the investment community.

15. The THIRD POINT mark has acquired secondary meaning.

16. The THIRD POINT mark and the goodwill of the business associated therewith in the United States and throughout the world are of great and incalculable value. The THIRD POINT mark is distinctive and arbitrary, and has become associated by the relevant public with investment services of the highest quality and reputation.

17. In 2006, TriPoint AM applied to register TRIPOINT ASSET MANAGEMENT, Serial No. 78/797,279; TRIPOINT ASSET MANAGEMENT & Design, Serial No. 78/903,634; TRIPOINT PARTNERS, Serial No. 78/797,316; and TRIPOINT & Design, Serial No. 78/905,609, as service marks, on the Principal Register of the United States Patent and Trademark Office based upon its intent to use such marks in commerce.

18. Upon information and belief, TriPoint began offering its services to investors in

2006 in the United States through a single fund.

19. Upon information and belief, TriPoint has begun using the mark TRIPOINT ASSET MANAGEMENT in commerce.

20. By letter dated October 25, 2006, Third Point demanded that TriPoint AM cease and desist the use of the phrase "TriPoint" and the infringement of the THIRD POINT mark or any name or mark confusingly similar thereto.

21. TriPoint AM has refused to cease engaging in such conduct.

22. TriPoint's ongoing use of TRIPOINT thus willfully infringes Third Point's trade name and trademark rights and is likely to confuse the investment community into believing they are dealing with Third Point.

FIRST COUNT - FEDERAL UNFAIR COMPETITION AND FALSE

DESIGNATION OF ORIGIN

23. Third Point repeats, reiterates and reavers the averments set forth in paragraphs 1-22 of this Complaint as if fully set forth herein.

24. Given the confusing similarity between the overall impression of TriPoint's use of TRIPOINT with Third Point's use of THIRD POINT, TriPoint's use of the TRIPOINT mark constitutes an intentional and willful false designation of origin and false description and representation to the consuming public, members of whom are likely to believe TriPoint's services are offered by or otherwise associated with Third Point, all to TriPoint's profit and Third Point's damage and injury.

25. TriPoint's aforesaid acts violate Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a), and have caused and will continue to cause Third Point irreparable injury unless enjoined by this Court.

26. Third Point has no adequate remedy at law.

SECOND COUNT - DELAWARE UNFAIR COMPETITION

27. Third Point repeats, reiterates and reavers the averments set forth in paragraphs 1 - 26 of this Complaint as if fully set forth herein.

28. Third Point has built up valuable goodwill in the THIRD POINT mark.

29. On information and belief, with knowledge of the THIRD POINT mark, TriPoint's use of the TRIPOINT mark has misled and will continue to mislead the public into assuming a connection between Third Point's and TriPoint's services in the alternative investment field.

30. TriPoint's acts constitute unfair competition with Third Point in violation of Delaware law. These acts have caused and will continue to cause Third Point irreparable harm unless enjoined by this Court.

31. Third Point has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE Third Point requests entry of judgment in its favor and against TriPoint and respectfully prays that this Court:

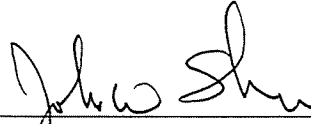
- a. Adjudge that TriPoint's use of the TRIPOINT mark is a false designation of origin in violation of the Lanham Act and unfair competition with Third Point;
- b. Permanently enjoin TriPoint, their officers, agents, servants, employees, attorneys, and other persons in active concert or participation with them from:
 - (i) doing business under the TRIPOINT name or mark; (ii) making any use of the TRIPOINT mark to misrepresent that TriPoint's services are associated with or emanate from Third Point; (iii) using the TRIPOINT mark and any other name or mark confusingly similar to THIRD POINT; and (iv) filing or continuing to

prosecute any applications to register marks containing TRIPOINT for use in financial services, including continuing to maintain its applications Serial No. 78/797,279; Serial No. 78/797,316; Serial No. 78/905,609; and Serial No. 78/903,634 in the United States Patent and Trademark Office;

- c. Order TriPoint to surrender for destruction all inventory in the TriPoint's possession or control of advertising, promotional or other materials bearing any name or mark containing the word "TriPoint" or any name or mark confusingly similar to THIRD POINT;
- d. Grant Third Point an equitable accounting of TriPoint's profits and award Third Point judgment for its damages or such profits, whichever are greater, arising from TriPoint's false designation of origin and unfair competition, such damages to be trebled pursuant to 15 U.S.C. § 1117;
- e. Award Third Point exemplary or punitive damages on Third Point's state law unfair competition claim due to TriPoint's intentional acts in reckless disregard of Third Point's rights and TriPoint's false representations to, and deception of, the public to foster the belief that TriPoint's services are those of Third Point or are associated with Third Point; and

- f. Grant Third Point such other and further relief as the Court deems to be reasonable, necessary and just.

YOUNG CONAWAY STARGATT & TAYLOR, LLP



John W. Shaw (No. 3362)
Chad S.C. Stover (No. 4919)
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, DE 19899-0391
(302) 571-6672
jshaw@ycst.com
cstover@ycst.com

-and-

Kelsey I. Nix
William M. Ried
Diane C. Ragosa
Fara S. Sunderji
WILLKIE FARR & GALLAGHER LLP
787 Seventh Avenue
New York, NY 10019-6099
Telephone: (212) 728-8000
Facsimile: (212) 728-8111

Dated: April 4, 2007

Attorneys for Plaintiff Third Point, LLC

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS THIRD POINT, LLC (b) County Of Residence Of First Listed Plaintiff: (Except In U.S. Plaintiff Cases) (c) Attorneys (Firm Name, Address, And Telephone Number) John W. Shaw (#3362) Chad S.C. Stover, Esquire (#4919) Young Conaway Stargatt & Taylor, LLP P.O. Box 391 Wilmington, DE 19899-0391 (302) 571-6600	DEFENDANTS TRIPOINT ASSET MANAGEMENT, LP, and TRIPOINT HOLDINGS LLC County Of Residence Of First Listed Defendant: (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED
--	---

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place An X In One Box For Plaintiff And One Box For Defendant) (For Diversity Cases Only) Citizen of This State <input type="checkbox"/> 1 <input type="checkbox"/> 1 Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2 Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3 Incorporated or Principal Place of Business in This State <input type="checkbox"/> 4 <input type="checkbox"/> 4 Incorporated and Principal Place of Business in This State <input type="checkbox"/> 5 <input type="checkbox"/> 5 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6
---	---

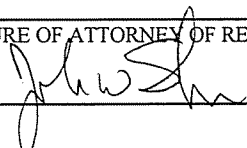
V. NATURE OF SUIT (Place An X In One Box Only)				
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 U.S.C. 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 U.S.C. 158 <input type="checkbox"/> 423 Withdrawal 28 U.S.C. 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 U.S.C. 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates, etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 U.S.C. 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)					Transferred from another district Appeal to District Judge from Magistrate Judgment	
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7

VI. CAUSE OF ACTION	(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTE UNLESS DIVERSITY): 15 U.S.C. § 1051, et seq. Brief description of cause: Cause of action for false designation of origin and unfair competition
----------------------------	--

VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	<input type="checkbox"/> YES <input type="checkbox"/> NO DEMAND \$	Check YES only if demanded in complaint JURY DEMAND: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
-------------------------------------	--	--	--

VIII. RELATED CASE(S) (See instructions) IF ANY	JUDGE:	DOCKET NUMBERS:
--	--------	-----------------

DATE APRIL 4, 2007	SIGNATURE OF ATTORNEY OF RECORD 
-----------------------	--

FOR OFFICE USE ONLY			
RECEIPT #	AMOUNT	APPLYING IFP	JUDGE MAG. JUDGE

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

07 - 192

Civil Action No. _____

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 3 COPIES OF AO FORM 85.

(Date forms issued)

Matthew D. Gordon
(Signature of Party or their Representative)

Matthew D. Gordon
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action